

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**APPELLATE SIDE****CIVIL APPLICATION NO.739 OF 2016****IN****WRIT PETITION NO.10838 OF 2014**

Ratilal Bhagwandas Sanghvi ... Applicant

V/s.

Kamlesh Singh Harnamsingh Chowhan ... Respondent

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Mrs. Jyotsna V. Vyas i/b Mr. Om Prakash Pandya for the applicant/petitioner.

Mr. Vivek Kantawala a/w Mr. Amey Patil i/b M/s. Vivek Kantawala & Co. for the respondent.

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CORAM : M. S. SONAK, J.**DATE : 11 APRIL 2016.****P.C.:**

1. The applicant/petitioner had challenged the order dated 23 April 2014 made by the Appeal Court to the extent it had directed the petitioner to deposit compensation @ Rs.7,000/- per month as a condition for stay upon the execution of the eviction decree. By order dated 12 August 2015, the compensation amount was reduced from Rs.7,000/- to Rs.5,000/- per month. The petitioner thereafter took out Civil Application No.2718 of 2015 seeking for further reduction in the compensation amount. By order dated 13 October 2015, the time was extended for deposit of arrears and the Civil Application was disposed of.

2. By this Civil Application, the petitioner once again seeks reduction or complete waiver. At this occasion also, the petitioner contended that on account of their financial position, the petitioner is unable to deposit the compensation amount. The learned counsel states that the petitioner is 72 years old and this fact remained to be pointed out when the matter was argued on earlier two occasions. It is once again submitted that the respondent is not the actual owner of the suit premises.

3. This Civil Application is in fact an abuse of process of Court. Upon taking into consideration the financial condition as projected, the amount of compensation was reduced from Rs.7,000/- to Rs.5000/-. Yet again the petitioner applied for further reduction. The said application was also dismissed but time was extended for deposit of compensation of arrears. On this occasion also, a plea has been made for complete waiver or for extension of time. In a disposed of matter, it is impermissible to the applicant to go on making such repeated application and that too upon a ground which hardly inspires confidence.

4. This application deserves to be dismissed with exemplary costs, however, in deference to plea raised by the learned counsel for the applicant, that such costs may not be imposed, the application is dismissed with no order as to costs.

(M. S. SONAK, J.)